Before the
FEDERAL COMMUNICATIONS COMMISSION FCC 96-118
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 73 and 74	)	**MM Docket No. 96-58**
of the Commission's Rules To	)	
Permit Certain Minor Changes In Broadcast	)	
Facilities Without a Construction Permit	)	

NOTICE OF PROPOSED RULE MAKING

Adopted: March 19, 1996 Released: March 22, 1996

Comment Date: May 16, 1996
Reply Comment Date: June 17, 1996

By the Commission:

INTRODUCTION

1. The Commission's Rules currently require that modifications of broadcast licenses and construction permits may only be accomplished pursuant to a two-step process. First, an application must be filed requesting a construction permit authorizing the proposed modification. Second, after the facilities are modified pursuant to the permit, a license application must be filed for a license for the modified facilities. Until recently, Section 319(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 319(d), required that this two-step procedure be followed for all modifications of broadcast stations by stating that "the Commission shall not have any authority to waive the requirement of a permit for construction." However, in response to the Commission's request for authority to simplify the two-step permit/license procedure, Congress, in the recently enacted Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), revised Section 319(d) to remove the prohibition against changing the permit requirement for minor broadcast station facilities changes. Section 319(d) has now been modified to read in relevant part as follows: "With respect to any broadcasting station, the Commission shall not have the authority to waive the requirement of a permit for construction, except that the Commission may by regulation determine that a permit shall not be required for minor changes in the facilities of authorized broadcast stations. Pub. L. No. 104-104, §403(m), 110 Stat. 56 (1996).

2. As a result of this revision in the law, we may now propose to revise our regulations to eliminate the two-step application process where appropriate and replace it with a single step licensing procedure. In this proceeding, we propose to eliminate the present requirement for a construction permit for a broadcast station in certain instances where the

changed facilities would not have an adverse impact on other broadcast facilities. In these instances, we will permit the broadcast licensee or permittee to initiate the change without prior authority and to file a license application to reflect the change afterwards.

3. We also propose to make other related processing and rule modifications that would provide additional benefits and flexibility to permittees and licensees, as well as clarity in the affected rule sections. These proposed changes would eliminate the delay and expense inherent in the preparation and filing of a construction permit application which would be routinely processed and granted, and would enable licensees to make certain changes with minimal delay. The modifications proposed herein would have a minimal impact on other stations. The proposed procedural changes would have the additional benefit of eliminating the need for the staff to review two separate applications for the same facility, thereby reducing the Commission's application workload while providing faster service to the applicants. While we have set forth in this Notice certain specific proposals to effectuate these goals, we also solicit suggestions and new ideas regarding other types of minor modifications that could appropriately be moved from the current two-step permit/license process to a one-step licensing process, consistent with our new statutory authority in this regard.

SPECIFIC PROPOSALS AND DISCUSSION

4. The proposed rule changes are as follows:

5. *Increases in Effective Radiated Power (ERP) for Non-Grandfathered and Non-Contour Protection FM Commercial Stations.* Currently, under 47 C.F.R. § 73.1690(b)(2) an FM commercial station seeking only to increase the effective radiated power (ERP) of its facilities must file an application on FCC Form 301 to obtain a construction permit before the increase in ERP may be accomplished. Because FM commercial stations are already provided protection to the maximum facilities for the station class under the minimum spacing requirements of 47 C.F.R. § 73.207 and the contour protection rule, 47 C.F.R. § 73.215, the processing and grant of a construction permit to increase ERP only is virtually automatic where no changes to the antenna radiation center heights are proposed. Consequently, we propose to modify 47 C.F.R. § 73.1690 to eliminate the requirement for a Form 301 application for FM commercial stations increasing ERP only. Instead, we propose to allow those stations to permanently increase their ERP up to the maximum ERP permitted for the station class, as set forth in 47 C.F.R. § 73.211(b), provided that a modification-of-license application on FCC Form 302-FM is filed within 10 days of increasing power.[1] We propose to require that the Form 302-FM application contain the radio frequency radiation analysis

[1] Stations authorized with antenna heights above average terrain (HAAT) in excess of the reference HAAT in 47 C.F.R. § 73.211(b) must limit their ERP in accordance with 47 C.F.R. § 73.211(b)(2).

which is currently required with a Form 301 application to demonstrate that the public and workers authorized access to the site, tower, or antenna are being protected from levels of radio frequency radiation in excess of the FCC limits, and to provide sufficient documentation for the staff to verify this result. We emphasize that we do not propose to allow any change in the authorized HAAT by this procedure.

6. However, we believe that five groups of FM commercial stations should not be eligible for this streamlined procedure and should still be required to file applications on FCC Form 301 for an increase in ERP only. First, those FM commercial stations with grandfathered short-spacings pursuant to 47 C.F.R. § 73.213 would not be eligible under this procedure, because in many instances omnidirectional power increases by these stations are restricted by the rule. Second, with respect to short-spaced stations authorized pursuant to the contour protection provisions of 47 C.F.R. § 73.215, an omnidirectional ERP increase may create new prohibited contour overlap (and hence interference), in violation of that rule. Therefore, short-spaced stations authorized under 47 C.F.R. § 73.215 would not be eligible for the one-step procedure.[2] Third, where a station modification could potentially affect a Commission monitoring station or a designated radio quiet zone, we propose to continue to require a construction permit before a power increase can be implemented. *See* 47 C.F.R. § 73.1030. Fourth, where a proposal would result in contour overlap that would violate the multiple ownership restrictions in 47 C.F.R. § 73.3555, a construction permit would still be required. Finally, for those stations in the Canadian or Mexican border zones which are short-spaced to a station or vacant allotment on the other side of the border, and for those stations whose authorized International Class does not permit operation at the maximum facilities permitted for the station's domestic class, a construction permit application would still be required because international coordination is necessary.

7. In addition, we seek comment on whether we should eliminate the requirement for a construction permit application where a station proposes to *decrease* effective radiated power. A decrease in ERP may raise concerns as to whether the community of license is being adequately served as required by 47 C.F.R. § 73.315(a). Allowing a power decrease without prior approval may make it difficult for the Commission to enforce compliance with the coverage rule, especially if the deficiency is not caught by the Commission until after the new license is issued and becomes final. Additionally, power reductions resulting in a loss of service could raise public interest concerns not attendant to a power increase. On the other hand, a one-step licensing procedure could have city coverage verification incorporated into the processing of the license application. This approach, however, would necessitate deferral of program test authority until completion of the staff's verification of city coverage compliance. It would also require revision of the FCC Form 302 and revision of the processing of that application.

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[2] This exclusion would not apply to a station receiving contour protection from a short-spaced Section 73.215 contour protection station, because the contour protection so provided is computed on the assumption of maximum facilities for the protected station.

8. Finally in this regard, we also do not propose to extend this one-step procedure to FM noncommercial educational stations operating on Channels 201 to 220, because those stations are authorized on the basis of contour protection to the actual (as opposed to maximum) facilities of other FM noncommercial educational stations.

9. *Program Test Operation for FM Stations with Directional Antennas.* Currently, FM commercial and noncommercial educational stations with a construction permit authorizing directional operations are prohibited from commencing automatic program test operation pursuant to 47 C.F.R. § 73.1620(a)(2). Instead, those stations are required to file a license application on FCC Form 302-FM at least 10 days prior to the date on which program test operations are intended to commence. The staff then examines the license application, and if the application and related exhibits meet the conditions specified on the construction permit and are otherwise satisfactory, the staff issues a letter authorizing program test operations.

10. Directional license applications usually contain no major problems which cannot be readily corrected by the applicant. Moreover, even where deficiencies exist, we expect that there would be no adverse impact on other stations if the directional FM stations were permitted to commence operations at reduced power. Therefore, we propose to relax the requirements of 47 C.F.R. § 73.1620 to permit FM stations holding a directional construction permit to commence operations at an ERP corresponding to either (a) half power, or (b) the authorized ERP corresponding to the deepest null of the directional pattern, whichever is greater. A reduction in power to this level should ensure that neighboring stations suffer no adverse impact while the Commission reviews the directional license application. To prevent confusion, this maximum allowable power for initial program test operations would be specified in a condition on the construction permit. The staff would continue to authorize full power operation by letter after it has examined the directional license application and related exhibits. It should be noted that this proposal would not affect a licensee's right to continue operation with its existing licensed facilities in lieu of operations at reduced power using the directional facility pending the approval of full program test authority.

11. *Replacing One FM or Television Directional Antenna with Another.* Presently, pursuant to 47 C.F.R. § 73.1690(b)(1), a construction permit application on FCC Form 301 for an FM or television commercial station or Form 340 for an FM or television noncommercial educational station, must be filed, processed, and granted before a licensee can replace an authorized directional antenna. We propose to modify the program test authority rule 47 C.F.R § 73.1620 and the transmission systems rule 47 C.F.R. § 73.1690 to permit requests for such changes on a modification-of-license application on FCC Forms 302-FM or 302-TV. For FM stations, we would accept a modification of license application provided that the measured composite pattern of the new directional antenna is completely encompassed

by the authorized composite pattern at all azimuths.[3] We propose to require that the FM modification of license application contain the exhibits which would normally be specified as conditions on a construction permit, namely (1) the statement of a licensed surveyor to certify that the antenna has been oriented properly, (2) the statement of a qualified engineer who oversaw installation of the directional antenna to certify that the installation was made per the manufacturer's instructions, (3) a measured pattern from the manufacturer showing the horizontal and vertical radiation components, and (4) a description from the antenna manufacturer describing the procedure by which the measured pattern was performed.[4] The FM station would be permitted to commence program test operations at reduced power immediately upon installation as indicated in the previous section, and would be granted full power program test authority by the staff after examination of a modification-of-license application which contains the necessary exhibits. When granted, the modified FM license would retain the previously authorized composite pattern, not the new measured composite pattern; thus none of the FM station's earlier radiation rights would be altered. For television stations using Form 302-TV to apply for a changed directional antenna, the application would have to contain the data referenced in the television service's directional antenna rule, 47 C.F.R. § 73.685(f). Television stations would then be permitted to commence program test operations immediately upon installation pursuant to the program test authority rule, 47 C.F.R. § 73.1620(a)(1).

12. *Deletion of Contour Protection Status for FM Commercial Stations.* FM stations that are authorized to utilize a short-spaced site pursuant to the contour protection rule (47 C.F.R. § 73.215) are specifically designated as such and have limited interference protection rights as a result of that designation. Such a station may subsequently become fully spaced, however, and thus eligible to remove the contour protection designation, where the station to which it was short-spaced moves its transmitting antenna to a fully spaced site or changes frequency. Presently, a contour protection station must file a construction permit application to remove that designation and regain its full interference protection rights. We propose to modify 47 C.F.R. § 73.1690 to permit short-spaced licensees and permittees authorized pursuant to the contour protection rule to remove the contour protection station designation, if they become fully spaced, by filing FCC Form 302-FM. Stations could request modification

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[3] The composite pattern may be defined as the plot of the relative field values for the entire 360 degrees of azimuth, where the relative field value for a particular azimuth is the larger of either the horizontally polarized radiation component or the vertically polarized radiation component. Because the term "composite pattern" is currently in common use for FM stations, and as it is proposed to be added to the revised rules herein, we also propose to add a definition of this term to 47 C.F.R. § 73.310(a). We would expect that the new measured composite pattern would achieve a maximum relative field value of 1.0 in some directions, because otherwise a reduction in maximum ERP would result, necessitating the filing of a Form 301 application as discussed in the text above.

[4] In addition, the measured antenna pattern for the new directional antenna would have to maintain compliance with the principal community requirements of 47 C.F.R. § 73.315(a).

of their authorizations by this means if no changes to the authorized parameters of the station will be made. The licensee or permittee would need to show that the station has become fully spaced under the minimum separation rule, 47 C.F.R. § 73.207. Such an application would be processed on a first come/first served basis with respect to any other station's minor change application. The change in station designation would be effective upon grant of the Form 302-FM application, and we would reissue the station's license to reflect the changed status. In this way, we would dispense with the need to file a construction permit application for this purpose.

13. *Use of Formerly Licensed Main Facilities As Broadcast Auxiliary Facilities (AM, FM, and Television).* A broadcast auxiliary facility may be defined as a separate authorized antenna, which may be used by the licensee of a broadcast station for short periods without prior permission from the Commission, while the licensed main facility is not operating (*e.g.*, for repairs on the main facility or tower work in the vicinity of the main station's antenna).[5] We propose to modify the present auxiliary antenna rule (47 C.F.R. § 73.1675) to eliminate the requirement for a construction permit where a formerly authorized main facility is to be used as a broadcast auxiliary (backup) operation and an implementing change in the effective radiated power of the new auxiliary facility is proposed. We will permit such changes in the effective radiated power on a modification of license application provided that the service contour of the broadcast auxiliary operation does not exceed the specified service contour for the licensed main operation, as required by 47 C.F.R. § 73.1675(a). An exhibit demonstrating compliance with 47 C.F.R. § 73.1675 will be required with the modification-of-license application.[6] Where an FM or TV applicant seeks to increase a proposed broadcast auxiliary facility's ERP from the ERP formerly authorized when the auxiliary served as the main transmitter, the applicant will also be required to provide an exhibit with the modification-of-license application demonstrating compliance with the FCC's radio frequency radiation requirements.[7]

14. *Changes to the Vertically Polarized ERP for FM and Television Stations.* We propose to eliminate the requirement in 47 C.F.R. § 73.1690(b)(2) that a construction permit

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[5] We also propose to add a definition of "broadcast auxiliary facility" to 47 C.F.R. § 73.310(a).

[6] We will also permit applicants who have since changed frequency to reactivate the formerly licensed main facility for the old frequency via this process, provided that the installation of the new antenna (tuned to the new frequency) meets the parameters specified on the station license and otherwise complies with this section.

[7] We do not propose to permit an auxiliary station's ERP, or ERP/HAAT combination, to exceed the reference values for the main station's class (e.g., 50 kW for a Class B or Class C2 station). *See* 47 C.F.R. § 73.211. In addition, we do not propose to allow proposed AM auxiliary facilities increased ERP via a modification of license application, given the complexities in AM engineering and the potential for additional interference.

application be filed on FCC Form 301 for omnidirectional commercial FM stations, as well as for omnidirectional commercial and noncommercial educational television stations, proposing to increase or decrease the amount of vertically polarized ERP. Under the rules for commercial FM stations and television stations, the vertically polarized ERP is always equal to or less than the authorized horizontally polarized ERP, and need not be employed at all if the station so desires. Moreover, with the exception of certain FM noncommercial educational stations (discussed in the next two paragraphs), changes in the vertically polarized ERP will not cause new interference to other broadcast stations. Consequently, we propose to allow an omnidirectional commercial FM station to make increases or decreases in the vertically polarized ERP (not to exceed the authorized horizontally polarized ERP) without a construction permit, provided that it files Form 302-FM to modify the station's license within 10 days after the change is completed. Further, we propose to allow omnidirectional full service commercial and noncommercial educational television stations to make the same changes using Form 302-TV.[8] Where an applicant seeks to increase the vertically polarized ERP, the applicant will be required to provide an exhibit with the Form 302-FM or 302-TV demonstrating compliance with the FCC's radio frequency radiation requirements.

15. We also propose to revise 47 C.F.R. § 73.1690 to permit noncommercial educational FM stations to make the same change to the vertically polarized ERP on a limited basis. Where the horizontally polarized ERP is greater or equal to the vertically polarized ERP, and where the FM noncommercial educational station meets the separations to Channel 6 television stations listed in 47 C.F.R. § 73.525(a)(1), the noncommercial educational station may file Form 302-FM specifying this change in lieu of FCC Form 340 in the manner outlined in the previous paragraph. Similarly, a noncommercial educational FM station within these distances may use this procedure if the horizontally polarized ERP is greater than or equal to the vertically polarized ERP, and the station proposes only to reduce the vertically polarized ERP.

16. Because of the potential for increased interference to television Channel 6 operations, we do not propose to extend this procedure to those noncommercial educational FM stations where the vertically polarized ERP is greater than the horizontally polarized ERP, or where an increase in the vertically polarized ERP is proposed for stations located within the Channel 6 separation distances specified in 47 C.F.R. § 73.525(a)(1).

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[8] We do not propose to allow changes in the horizontally polarized ERP by a modification of license application, except as indicated in paragraphs 4 and 5 above, because (1) the horizontally polarized ERP defines the authorized ERP for television, FM commercial, and some noncommercial educational FM stations, and (2) the vertically polarized component is subject to different propagation phenomena than the horizontally polarized component. *See Amendment of Section 73.316(a) of the Commission's Rules*, 8 FCC Rcd 4166 (1993); *City College of New York*, 47 R.R. 2d 1095 (1980).

17. *Changes in Height of Antenna Radiation Center.* Presently, 47 C.F.R. § 73.1690(c)(1) permits FM and television licensees to locate their antenna radiation centers up to two meters above or two meters below the authorized value. Beyond this range, grant of a construction permit application on FCC Form 301 or Form 340 is required before a licensee or permittee can vary the height of the antenna radiation center. We propose to relax this requirement to permit installation of the antenna up to two meters above or four meters below the authorized value. We would continue to specify the originally authorized construction permit values on the license granted to cover the changes, however, to avoid a situation in which a licensee would file successive modification of license applications to increase the antenna radiation center by a total amount of more than two meters upward (potentially exceeding the maximum permitted for the class of station) or downward by more than four meters (potentially reducing the station's actual coverage).

18. We do not believe that allowing an additional 2 meters below the authorized antenna radiation center heights will noticeably reduce coverage. It would, however, give FM and television permittees and licensees increased flexibility to mount their antennas on the tower structure, and will help to minimize difficulties encountered by permittees or licensees due to the location of guy wires, tower bracing, location of adjacent antennas, etc. Moreover, this change will reduce the number of construction permit applications received for slight decreases in antenna heights caused by these factors, which are routinely processed and granted, and will speed the processing of license applications to cover these minimal changes.

19. *Main Studio Changes.* We propose to eliminate the requirement that AM, FM and television applicants, pursuant to 47 C.F.R. § 73.1125, file a construction permit application on FCC Form 301 for commercial stations or Form 340 for noncommercial educational stations to request a main studio location at variance from the requirements of the rule. The present use of a construction permit application for main studio requests is unnecessarily burdensome for applicants because most of the questions on the form are not relevant to such changes. Instead, we propose that these requests be made in a letter form, with appropriate justification attached, to the processing group responsible for the station's service (Audio Services Division, MMB, for AM and FM, or the Television Branch, Video Services Division, MMB, for television), which will then act on these requests after appropriate public notice and opportunity for comment is given.

20. The proposed procedure would eliminate main studio waiver requests from the processing stream of construction permit applications involving engineering changes. We note that main studio requests involve minimal engineering review (if any) and thus do not require entry into the technical databases. However, because main studio waiver requests often require significant legal review and analysis, we believe that the fee submission requirements presently applicable to a main studio waiver request for commercial radio or television

stations, in the amount applicable to a minor change application on Form 301 ($650.00), should continue.[9]

21. *Commercial Stations Changing to Noncommercial Educational Status.* Presently, where an AM or commercial FM station desires to be licensed as a noncommercial educational station, the licensee must file a construction permit application on FCC Form 340, which requires the appropriate documentation to demonstrate that the licensee will satisfy the criteria applicable to a noncommercial educational station. Once the construction permit application is granted, the licensee must then file a license application to cover the granted permit. There does not appear to be any reason to require the filing of two separate applications for this purpose, and therefore we propose to eliminate this two step process by permitting this change to be accomplished by a modification of license application, provided that the applicant provides the necessary documentation (*i.e.*, the information required by Sections II and IV of FCC Form 340). Upon grant of the license application, the change would become effective, and the station license would be reissued.

22. *Additional Clarifications to 47 C.F.R. §§ 73.1620 and 73.1690.* In addition to the proposed changes to the program test authority rule (47 C.F.R. § 73.1620) and the transmission systems rule (47 C.F.R. § 73.1690) to implement the proposals set forth in this Notice, we take this opportunity to propose additional revisions to simplify and clarify these provisions, as shown in Appendix A. Over the years, these rules as presently written have been the source of repeated requests to the staff for interpretation. While the proposed revisions lengthen these rules to some extent, we expect that the changes will better enable licensees and permittees to determine expeditiously what is permitted under these rule sections.

23. *Continuation of Protection to AM Stations.* Presently, where a broadcast station proposes construction on an AM broadcast tower or within 3.2 km (approximately 2 miles) of an AM broadcast station, additional precautions may be required to ensure that the AM station's operations are not adversely affected. These precautions have taken the form of special conditions on the broadcast station's construction permit. Because the changes proposed herein eliminate the construction permit process in some cases, we are concerned that the necessary protections to AM stations might be lost, with severe consequences to the AM band. Therefore, we propose to incorporate the AM station protection requirements into

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[9] The Congressional authorization for the collection of fees for requests for Commission actions specifically authorized the collection of fees for main studio waiver requests from commercial applicants in the amount applicable to minor facilities modifications. *See Consolidated Omnibus Budget Reconciliation Act of 1985*, Pub. L. No. 99-272, Section 5002(e), (f), 100 Stat. 82, 118-121(1986); Conf. Rep. No. 99-454, 99th Cong., 1st Sess., 426 (1985). Noncommercial educational applicants would continue to be exempt from this filing fee.

a new rule section, 47 C.F.R. § 73.1692. We also propose to revise 47 C.F.R.§ 73.1690 and other related sections to direct the applicant's attention to these requirements.

24. *Clarification to Channel 6 Television - FM Educational Rules in 47 C.F.R. § 73.525 and 47 C.F.R. § 73.599.* Together, these two rule sections are used to determine the maximum amount of interference that a noncommercial educational FM station can cause to reception of a Channel 6 television signal. However, these rules as presently written do not cover all possible situations. For example, the charts in 47 C.F.R. § 73.599 do not show any value greater than 90 dBu for the Channel 6 television field strength, nor does 47 C.F.R. § 73.525 provide any guidance. Consequently, some noncommercial educational FM applicants proposing to locate within the 90 dBu television contour have been confused as to what interference prediction methods should be followed. Although specific procedures were not promulgated when these rule sections became effective (through BC Docket No. 20735 in 1985), guidance on this matter was given in the *Second Further Notice of Proposed Rulemaking* in BC Docket No. 20735, FCC 82-225, 47 Fed. Reg. 24144 (1982). In that item we proposed that television field strengths above 90 dBu should be considered as if the 90 dBu field strength were constant everywhere within that contour.[10] Though the procedure was inadvertently omitted from the final rule adopted in 1985, it has been the staff's policy to apply it where applications within the television 90 dBu contour have been proposed. We propose to amend 47 C.F.R. § 73.525 to add this requirement, thus bridging the present gap in the rules between those FM noncommercial educational stations colocated with the Channel

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[10] The pertinent portions of paragraphs 29 and 30 of the *Second Further Notice of Proposed Rulemaking* stated as follows:

> 29. Table D only includes values up to a predicted TV Channel 6 field strength of 90 dBu. For most Channel 6 stations, this predicted field strength would occur 8 to 15 miles from the TV tower. In areas closer to the TV tower, two phenomena occur. The vertical radiation pattern of the transmitting antenna begins to have an effect. With the main lobe directed at the radio horizon, the ERP toward receiving locations close to the tower can be significantly less than that which would normally be expected. The result can be that the median field strength will remain relatively constant over this area, whereas application of the F(50,50) curves would indicate a continuously increasing field strength as the distance to the station decreases.
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> 30. The other factor that becomes significant as the FM site approaches the TV Channel 6 site is the correlation between the field strengths of the two signals. . . . . Because of the transmitting antenna vertical radiation pattern, we propose to require that when the noncommercial, educational FM station is [outside the colocation option] from the TV Channel 6 station and the F (50,50) Channel 6 predicted field strength is greater than 90 dBu, the field strength should be assumed to be 90 dBu.

6 television station (47 C.F.R. § 73.525(d)) and those whose predicted interference areas lie outside the 90 dBu TV contour (47 C.F.R. § 73.215(e)), and affording Channel 6 television stations the protection from interference to which they are entitled.

25. *Requirement that FM Measured Directional Composite Pattern Fill 85% Or More of FM Directional Composite Pattern.* For FM commercial and noncommercial educational stations, we propose to codify the staff's present policy that the area within the composite pattern (in relative field values) of a measured directional antenna be at least 85% of the area within the authorized composite directional pattern. *See, e.g., Letter to Sunbury Broadcasting Corp.*, BLH-940805KC, Reference No. 1800B3-EPD, dated February 22, 1996; *Letter to Randolf Victor Bell,* BLH-951027KA, Reference No. 1800B3-JAG, dated November 21, 1995. This policy was adopted to prevent applicants from proposing composite directional patterns in the construction permit stage which would not reasonably correspond to the final measured pattern, or which could not be achieved in practice. This requirement would conform the FM broadcast service to the AM service in this regard.

26. The use of a composite directional pattern in the FM service defines a maximum radiation limit within which the permittee or licensee can design a measured directional antenna pattern without concern that other FM stations will be adversely affected. In this way, increased flexibility is afforded to FM licensees and permittees. The staff adopted the 85% policy after some applicants proposed final measured patterns greatly reduced from the authorized composite pattern. Otherwise, applicants could specify a greater composite contour which encompassed an area not receiving service, yet precluding the institution of new or increased service in other areas. This is not an efficient use of the scarce FM broadcast spectrum. Codifying the 85% policy will make clear to potential applicants that this criterion should be made a consideration in the preparation of their applications, and would (in most cases) eliminate the need for a second construction permit application to conform the reduced measured pattern to the authorized composite pattern, resulting in a savings of time and money to both the applicant and the Commission.

27. *Fees for Modification of License Applications.* Presently, no fee is required for a modification of license application if the change may be made without prior authority from the Commission. *See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947, 967-68 (1987). Because the majority of the facilities modifications discussed herein would be requested through a modification of license application without prior Commission authority, we would not be permitted under our present authority to impose fees for these applications. However, the main studio waiver request letters (addressed in Paragraphs 17 and 18 above) will continue to require a minor change filing fee of $650.00.

CONCLUSION

28. We believe that the simplified, one-step filing procedures and related rule revisions proposed here for certain minor modifications will provide stations with greater flexibility in making changes that would not be likely to have any significant impact on other stations. Stations will be able to make these types of changes on a much more expeditious basis because the applications for prior consent to make those minor changes will no longer be grouped together for processing with other types of modification applications that would be more likely to impact other stations. In addition, the rule changes we propose would allow the Commission to concentrate its limited resources on the evaluation of applications that have a more significant possibility of impact on other stations and the public. We have also proposed minor changes to some additional rules which refer to the rules that are the focus of this proceeding. Accordingly, we seek comments on the proposed changes to the rules as discussed above and as set forth in the attached Appendix A.

29. Finally, we solicit suggestions and new ideas regarding other types of minor modifications that could be appropriately moved from the current two-step permit/license process to a one-step licensing process, beyond the specific proposals set forth in this Notice, consistent with the new authority granted to the Commission by the Telecommunications Act of 1996. We are particularly interested in ideas which will speed the introduction of improved service to the public, save stations time and expense, and at the same time reduce the burden on the Commission and its staff. Comments and suggestions on procedures and rule sections not addressed herein which could be relaxed or modified should consider: (1) the potential impact on other broadcast stations; (2) compliance with the Commission's environmental regulations (including radio frequency radiation guidelines); (3) need for Federal Aviation Administration clearance and effects on FCC tower registrations[11]; and (4) the anticipated benefits to the individual applicants, broadcast industry, and the Commission. We would also encourage commenters suggesting ideas not already proposed herein to include proposed rule language that would be needed to effectuate their suggestions.

ADMINISTRATIVE MATTERS

30. Authority for the proposed rule changes upon which comments are invited is contained in Sections 4(i), 5(c)(1), 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 302, and 303.

31. *Initial paperwork Reduction Act of 1995 Analysis.* This NPRM contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget

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[11] *See, e.g., Streamlining the Commission's Antenna Structure Clearance Procedure*, WT Docket 95-5, FCC 95-473, 61 Fed. Reg. 35503 (February 6, 1996).

(OMB) to take this opportunity to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995. Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments in this NPRM; OMB comments are due 60 days from the date of publication of the NPRM in the Federal Register. Comments should address: (a) whether the proposed collection of data is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automatic collection techniques or other forms of information technology.

32. *Comment Dates.* Under procedures set forth in Section 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested persons may file comments on or before **May 16, 1996** and reply comments on or before **June 17, 1996.** To file formally in this proceeding, you must file an original plus seven copies of all comments, reply comments, and supporting comments. If you want each Commissioner to have a personal copy of your comments, you must file an original plus eleven copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C.

33. Written comments on the proposed or modified information collections are due **May 16, 1996.** Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after the date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Room 234 /Mail Stop 0600, 1919 M Street NW, Washington, DC 20554, or via Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street NW, Washington, DC 20503 or via Internet to fain_t@al.eop.gov.

34. *Ex Parte Rules -- Non-Restricted Proceeding.* This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission Rules. *See generally* 47 C.F.R. §§ 1.202, 1.203, and 1.1206(a).

35. *Regulatory Flexibility Act.* As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the expected impact on small entities of the proposals advanced herein, attached as Appendix B. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice,* but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall send a copy of this *Notice*, including the

Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Section 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, (codified at 5 U.S.C. Section 601 *et seq.*) (1981).

36. Further information may be obtained from Dale Bickel, Audio Services Division, Mass Media Bureau, (202) 418-2720.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX A
Proposed Rule Changes

It is proposed to amend Part 1 of Title 47 of the U.S. Code of Federal Regulations to read as follows:

A new Section 1.1104(1)(m) is proposed to be added:

§ 1.1104 (1) (m)
Main Studio Request (does not comply with § 73.1125) .....N/A.....[Fee type code to be determined later].....$650.00.....Federal Communications Commission, Mass Media Services, P.O. Box 358165, Pittsburgh, PA 15251-5165

A new Section 1.1104(2)(m) is proposed to be added:

§ 1.1104 (2) (m)
Main Studio Request (does not comply with § 73.1125).....N/A.....[Fee type code to be determined later].....$650.00.....Federal Communications Commission, Mass Media Services, P.O. Box [to be determined later], Pittsburgh, PA 15251-[ ]

It is proposed to amend Part 73 of Title 47 of the U.S. Code of Federal Regulations to read as follows:

Section 73.310(a) is proposed to be modified by the insertion of the following definition inserted immediately after the definition of *Antenna Power Gain:*

§ 73.310 (a) *Auxiliary Broadcast Facility.* An auxiliary broadcast facility is a separate antenna from the main facility's antenna, from which a station may broadcast for short periods without prior Commission authorization while the main facility is not in operation (*e.g.*, where tower work necessitates turning of the main antenna or where there has been lightning damage to the main antenna and transmission system) (*See* § 73.1675).

Also, Section 73.310(a) is proposed to be modified by the insertion of the following definition inserted immediately after the definition of *Composite Base Band Signal*:

§ 73.310 (a) *Composite pattern.* The composite pattern of an FM directional antenna is defined as the relative field pattern, normalized to a maximum of 1.0, which completely encompasses (for 360 degrees of azimuth) the horizontally polarized and vertically polarized radiation components in 360 degrees of azimuth.

A new Section 73.316(c)(9) is proposed to be added, as follows:

§ 73.316 (c) (9) In the case of applications for license upon completion of antenna construction, a showing that the area within the composite directional pattern of the measured horizontally and vertically polarized radiation components is at least 85% of the area within the authorized composite directional antenna pattern, and that the measured pattern complies with the principal community coverage requirements of § 73.315(a).

Section 73.316(e) as written is proposed to be deleted and replaced with the following:

§ 73.316 (e) Where an FM licensee or permittee proposes to mount its antenna on an AM station, or locate within 3.2 km of an AM station, the FM licensee or permittee must comply with § 73.1692.

Sections 73.316 (f), (g), (h), and (i) are proposed to be deleted.

Section 73.525(e)(1)(vii) is proposed to be added, as follows:

§ 73.525 (e) (1) (vii) For those locations within the predicted interference area to Channel 6 television from a noncommercial educational FM station which fall on or within the 90 dBu F(50,50) contour of the television Channel 6 station, the location of the interfering contour shall be predicted assuming that the Channel 6 field strength remains constant at 90 dbu everywhere within that TV contour. The FM to Channel 6 (U/D) ratio used shall be the ratio from § 73.599 for 90 dBu.

Section 73.685 (h) as written is proposed to be deleted and replaced as follows:

§ 73.685 (h) Where a TV licensee or permittee proposes to mount an antenna on an AM station, or locate within 3.2 km of an AM station. the TV licensee or permittee must comply with § 73.1692.

Section 73.1125 (b)(2) as presently written is proposed to be deleted and replaced with the following:

§ 73.1125 (b) (2) Written authority to locate a main studio outside a station's principal community contour for the first time must be obtained from the Audio Services Division, Mass Media Bureau for AM and FM stations, or the Television Branch, Video Services Division, Mass Media Bureau for television stations, prior to locating the main studio at the specified site. Where the main studio is already authorized at a location outside the station's principal community, and the licensee or permittee desires to specify a new location also located outside the station's principal community contour, written authority must also be

received from the Commission prior to the relocation of the main studio. Licensees or permittees should be aware that the filing of a request for written authority to locate the main studio outside the principal community contour does not imply approval of the relocation request, because each request is addressed on a case-by-case basis.

Section § 73.1620 (a) (2) as presently written is proposed to be deleted and replaced with the following:

§ 73.1620 (a) (2) The permittee of an AM or FM station with a directional antenna system must file an application for license requesting authority to operate on program test authority at full power with the FCC in Washington, D.C., at least 10 days prior to the date on which full power operations are desired to commence. The request must be filed on FCC Form 302-AM for AM stations or Form 302-FM for FM stations, and must contain any exhibits called for by conditions on the construction permit. The staff will review the license application and the request for program test authority and issue a letter indicating whether full power operation has been approved. Upon filing of the license application and related exhibits, and while awaiting approval of full power operation, the AM or FM permittee may operate the directional antenna at either half power or the effective radiated power corresponding to the ERP in the deepest null, whichever is the greater.

A new Section § 73.1620(a)(3) is proposed to be added as follows:

§ 73.1620 (a) (3) FM licensees replacing a directional antenna pursuant to § 73.1690 (c)(2) or (c)(3) without other changes may commence program test operations with the new antenna at either half power or the ERP corresponding to the authorized ERP in the deepest null, whichever is greater. After staff review of the modification-of-license application to cover the antenna change, the staff will issue a letter indicating whether full power program test operation has been approved for the replacement directional antenna.

Section 73.1620(c) is proposed to be revised as follows:

§ 73.1620 (c) The FCC reserves the right to revoke, suspend, or modify program tests by any station without right of hearing for failure to comply adequately with all terms of the construction permit or the provisions of § 73.1690(c) for a modification of license application, or in order to resolve instances of interference.

§ 73.1675 is proposed to be revised as follows:

§ 73.1675 **Auxiliary Broadcast Facilities**

(a) *

(b) *

(c) (1) Where an FM or TV licensee proposes to use a formerly licensed main facility as an auxiliary broadcast facility, and no changes in the height of the antenna radiation center are required in excess of the limits in § 73.1690(c)(1), the FM or TV licensee may apply for the proposed auxiliary broadcast facility by filing a modification of license application. An exhibit must be provided with this license application to demonstrate compliance with § 73.1675(a). Where an increase in ERP from the former licensed ERP value is requested, the license application must also contain an analysis demonstrating compliance with the Commission's radio frequency radiation guidelines. Auxiliary broadcast facilities mounted on an AM tower must also demonstrate compliance with § 73.1692 in the license application.

(c) (2) Where an AM licensee proposes to use a former licensed main facility as an auxiliary broadcast facility with an ERP less than or equal to the ERP specified on the former main license, the AM station may apply to license the proposed auxiliary broadcast facility by filing a modification of license application on Form 302-AM. The license application must contain an exhibit to demonstrate compliance with § 73.1675(a).

Section 73.1690 is proposed to be revised as follows:

(a) *

(b) The following changes may be made only after the grant of a construction permit application on FCC Form 301 for commercial stations or Form 340 for noncommercial educational stations:

(1) Any construction of a new tower structure for broadcast purposes.

(2) Any change in transmitter site, including coordinate corrections..

(3) Any change which would require an increase along any azimuth in the composite directional pattern of an FM station from the composite directional pattern authorized, or any increase from the authorized directional antenna pattern for a TV station.

(4) Any change in the directional radiation characteristics of an AM directional antenna system.

(5) Any decrease in the authorized effective radiated power of an FM or TV station, except for auxiliary facilities covered under § 73.1675. In addition, a construction permit is required for any increase in ERP not covered by § 73.1675(c)(1) or § 73.1690(c)(4) and (5).

(6) Any increase in the horizontally polarized ERP for a noncommercial educational FM station. In addition, any increase in the vertically polarized ERP for an FM noncommercial educational station within the separations specified in Table A in § 73.525(a)(1) with respect to a Channel 6 television station must receive grant of a construction permit before changes may be made.

(7) Any increase in the horizontally polarized ERP of a television station or FM commercial station, except as provided for FM commercial stations in § 73.1690(c)(5) and (c)(7).

(c) The following FM and TV station modifications may be made without prior authorization from the Commission. A modification of license application must be submitted to the Commission within 10 days of commencing program test operations pursuant to § 73.1620. With the exception of applications filed pursuant to section (c)(8), the modification of license application must contain an exhibit demonstrating compliance with the Commission's radio frequency radiation guidelines. In addition, except for applications filed pursuant to (c)(8), where the installation is located within 3.2 km of an AM tower or is located on an AM tower, an exhibit demonstrating compliance with § 73.1692 is also required.

(1) Replacement of a non-directional antenna with one of the same or different number of antenna bays, provided that the height of the antenna radiation center is not more than 2 meters above or 4 meters below the authorized values, and also provided that there is no change in effective radiated power or station class as a result of the variation. Program test operations at the full authorized ERP may commence immediately upon installation pursuant to § 73.1620(a)(1).

(2) Replacement of a directional FM antenna, where the measured composite directional antenna pattern does not exceed the licensed composite directional pattern, where no change in effective radiated power will result, and where compliance with the principal coverage requirements of § 73.315(a) will be maintained by the measured directional pattern. The modification of license application on Form 302-FM to cover the antenna replacement must contain all of the data in the following sections (i) through (iv). Program test operations at reduced power may commence immediately upon installation pursuant to § 73.1620(a)(3).

(i) A measured directional pattern and tabulation on the antenna manufacturer's letterhead showing both the horizontal and vertical radiation components and

demonstrating that neither of the components exceeds the authorized composite pattern along any azimuth, and showing that the area within the final measured composite pattern (in relative field) is 85% or more of the area within the authorized composite pattern (also in relative field).

(ii) A description from the manufacturer as to the procedures used to measure the directional antenna pattern. The antenna measurements must be performed with the antenna mounted on a tower or tower section equivalent to that on which the antenna will be permanently mounted, and the tower or tower section must include transmission lines, ladders, conduits, other antennas, and any other installations which may affect the measured directional pattern.

(iii) A certification from a licensed surveyor that the antenna has been oriented to the proper azimuth.

(iv) A certification from a qualified engineer who oversaw installation of the directional antenna that the antenna was installed pursuant to the manufacturer's instructions.

(3) Replacement of a directional TV antenna, where the proposed horizontal theoretical directional antenna pattern does not exceed the licensed or authorized horizontal directional antenna pattern at any azimuth and where no change in effective radiated power will result. The modification of license application on Form 302-TV must contain all of the data set forth in § 73.685(f).

(4) Commercial FM, commercial TV, and noncommercial educational TV omnidirectional licensees may increase the vertically polarized effective radiated power up to the authorized horizontally polarized effective radiated power. Noncommercial educational FM licensees and permittees may do the same provided that the station is located outside the separations from a Channel 6 television station listed in Table A of § 73.525(a)(1). Program test operations may commence at full power pursuant to § 73.1620(a)(1).

(5) Those Class A FM commercial stations which were permitted to increase ERP pursuant to MM Docket No. 88-375 by a modification of license application remain eligible to do so, provided that the station meets the requirements of § 73.1690 (c)(1) and is listed on one of the Public Notices as authorized to increase ERP, or by a letter from the Commission's staff authorizing the change. The increased ERP must comply with the multiple ownership requirements of § 73.3555. These Public Notices were released on November 3, 1989; November 17, 1989; December 8, 1989; March 2, 1990; and February 11, 1991.

(6) Contour protection stations authorized pursuant to § 73.215 which have become fully spaced under § 73.207 may file a modification of license application to delete the § 73.215 contour protection designation. This change will become effective upon grant

of the license application. Applications filed under this rule section will be processed on a first come / first served basis with respect to later-filed conflicting FM commercial minor change applications and modification of license applications filed pursuant to § 73.1690 (b) and (c)(6) and (c)(7).

(7) FM commercial stations which are not designated as contour protection stations, and which meet the spacing requirements of § 73.207, may increase ERP to the maximum permitted for the station class, provided that any change in the height of the antenna radiation center remains in accordance with § 73.1690(c)(1). All of the following conditions also must be met before a station may apply pursuant to this section:

(i) The station may not be a "grandfathered" short-spaced station pursuant to § 73.213 or short-spaced by a granted waiver of § 73.207;

(ii) The station may not be located in or near a radio quiet zone, radio coordination zone, or a Commission monitoring station (see § 73.1030);

(iii) The station does not require international coordination as clearance has been obtained from Canada or Mexico for the higher power operation within the station's specified domestic class;

(iv) The increased ERP will not cause the station to violate the multiple ownership requirements of § 73.3555.

(8) The licensee of an AM, FM, or TV commercial licensee may propose to change from commercial to noncommercial educational on a modification of license application, provided that the application contains completed Sections II and IV of FCC Form 340. In addition, a noncommercial educational AM, TV, or FM licensee on Channels 221 to 220 (except Class D FM), may apply to change from educational to commercial via a modification of license application, and no exhibits are required with the application. The change will become effective upon grant of the license application.

(d) *

(e) *

A new Section 73.1692 is proposed to be added, as follows:

§ 73.1692 **Broadcast Station Construction Near or Installation On an AM Broadcast Tower.** Where a broadcast licensee or permittee proposes to mount a broadcast antenna on an AM station tower, or where construction is proposed within 0.8 km of an AM nondirectional tower or within 3.2 km of an AM directional station, the broadcast licensee or

permittee is responsible for ensuring that the construction does not adversely affect the AM station, as follows:

(a) *Installations on an AM Nondirectional Tower.* During installation of the broadcast antenna and related equipment, the AM station shall determine operating power by the indirect method (see § 73.51). Upon the completion of the installation, antenna impedance measurements on the AM antenna shall be made, and, prior to or simultaneously with the filing of the license application covering the broadcast station installation, an application on FCC Form 302-AM (including a tower sketch of the installation) shall be filed with the Commission for the AM station to return to direct power measurement.

(b) *Installations on an AM Directional Array.* During installation of the broadcast antenna and related equipment, the AM station shall determine operating power by the indirect method (see § 73.51). If necessary, the AM station shall request special temporary authority pursuant to § 73.1635 to request authority to operate at variance in order to maintain monitoring point values within the authorized limits. Upon the completion of the installation, common point impedance measurements on the AM array shall be made, as defined in § 73.154(a), shall be conducted to establish that the AM array has not been adversely affected. Prior to or simultaneously with the filing of the license application to cover the broadcast station installation, the results of the common point impedance measurements shall be filed with the Commission on FCC Form 302-AM for the AM station to return to direct power measurement.

(c) *Tower Modifications Within 0.8 km of an AM Nondirectional Tower.* Prior to commencing the construction of tower modifications, or the erection of a new tower, within 0.8 km of an AM nondirectional tower, the broadcast permittee or licensee is required to notify the AM station so that the AM station may commence determining operating power by the indirect method (see § 73.51). The broadcast licensee or permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects on the radiation pattern of the AM station. Both prior to construction of the tower modifications and subsequent to the installation of all appurtenances thereon, antenna impedance measurements of the AM station shall be made. In addition, sufficient field strength measurements. taken at a minimum of 10 locations along each of 8 equally spaced radials, shall be made to establish that the AM radiation pattern is essentially omnidirectional. Prior or simultaneously with the filing of the application for license to cover this permit, the results of the impedance measurements and the field strength measurements shall be filed with the Commission on FCC Form 302-AM for the AM station to return to the direct method of power determination.

(d) *Tower Modifications Within 3.2 km of an AM Directional Station.* Prior to commencing construction of tower modifications, or the erection of a new tower structure, within 3.2 km of an AM directional array, the broadcast permittee or licensee shall notify the AM station so that, if necessary, the AM station may determine operating power by the indirect method (see § 73.51) and request special temporary authority pursuant to § 73.1635

to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. The broadcast licensee or permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to the commencement of construction and upon completion of construction, a partial proof of performance (as defined by § 73.154) shall be conducted to establish that the AM array has not been adversely affected. Prior to or simultaneously with filing of the license application to cover the broadcast station construction, the results of the partial proof of performance shall be filed with the Commission on Form 302-AM.

Section 73.3500: The reference to Form 302, "Application for New Broadcast Station License" is proposed to be deleted, and new text inserted as follows:

§ 73.3500 Form 302-AM ..... Application for AM Broadcast Station License
Form 302-TV ..... Application for Television Broadcast Station License

Section 73.3536(b)(1) is proposed to be revised to read as follows:

§ 73.3536 (b) (1) Form 302-AM for AM stations, "Application for New AM Station Broadcast License"; Form 302-FM for FM stations, "Application for FM Station License"; and Form 302-TV for television stations, "Application for TV Station Broadcast License."

Section 73.3537 is revised to read as follows:

§ 73.3537 See § 73.1675, "Auxiliary Broadcast Facility".

Section 73.3538 is proposed to be revised as follows:

§ 73.3538 Where prior authority is required from the FCC to make changes in an existing station, the following procedures shall be used to request that authority:

(a) An application for construction permit using the forms listed in § 73.3533 must be filed for authority to:

(1) Make any of the changes listed in § 73.1690(b).

(2) Change the hours of operation of an AM station, where the hours of operation are specified on the license or permit.

(3) Install a transmitter which has not been approved (type accepted) by the FCC for use by licensed broadcast stations.

Sections 73.3538 (a) (5), (6) and (7) are proposed to be deleted in their entirety.

A new Section 73.3538(b)(3) is proposed to be added as follows:

§ 73.3538 (b) (3) Relocation of a main studio outside the principal community contour may require the filing and approval of a request for authority to make this change prior to implementation. See § 73.1125.

Section 73.3544(a) is proposed to be revised as follows:

§ 73.3544 (a) The changes specified in § 73.1690(c) may be made by the filing of a license application using the forms listed in § 73.3536(b)(1).

It is proposed to amend Part 74 of Title 47 of the U.S. Code of Federal Regulations to read as follows:

Section 74.780 is proposed to be modified under the reference to Part 73. to insert a reference to the proposed rule section 73.1692, as follows:

§ 74.780 Section 73.1692 --- Construction Near or Installation on an AM station

A new Section 74.1237(e) is proposed to be added as follows:

§ 74.1237 (e) A translator or booster station to be located on an AM broadcast tower or located within 3.2 km of an AM broadcast tower will be required to comply with § 73.1692.

** End Appendix A **

APPENDIX B

Initial Regulatory Flexibility Analysis

I. *Reason for Action.* This proposed action is necessary to provide more flexibility for AM, FM and television stations to effectuate minor modifications of their facilities in instances where there would not likely be any significant impact on other stations. In addition, this proposed action would allow such minor modifications to be made more quickly than under the current procedures.

II. *Objectives.* The objective of this proceeding is to allow AM, FM, and television station licensees and permittees to bring improved service to the public more efficiently and expeditiously while controlling interference to other stations.

III. *Legal Basis.* The action taken in this *Notice* is authorized by Sections 4(i), 5(c)(1), 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 302, and 303.

IV. *Description, Potential Impact and Number of Small Entities Affected.* The entities affected by this proposal are AM and FM radio and television station licensees and permittees seeking to effect minor modifications of facilities that have previously been authorized by the Commission. The total number of such licensees and permittees is nearly 15,000. Because the *Notice* proposes provisions which allow for greater flexibility in operation, the option of whether or not to take advantage of the new rules rests with each licensee or permittee. There is no requirement that any licensee or permittee make any change as a result of these rule amendments. The number of licensees or permittees who might decide to modify their stations pursuant to these rule amendments is unknown, but under the present rules, approximately 150 stations each year file applications that propose the types of facilities modifications that are the subject of these rule amendments.

V. *Recording, Record Keeping and Other Compliance Requirements.* None.

VI. *Federal Rules which Overlap, Duplicate or Conflict with these Rules.* None.

VII. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with the Stated Objectives.* None.